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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,088	04/13/2001	Gary Reding	20697-301	2977
7590 04/07/2006				
GLEN BROOKS LOWENSTEIN SANDLER PC 65 LIVINGSTON AVENUE ROSELAND, NJ 07068-1791			EXAMINER	
			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,088

Applicant(s)

REDING ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 25-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4 and 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 25-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what statutory class is being claimed. Claim 25 appears to be drawn to an apparatus claim, but it recites method step, such as, "wherein the communications received from the intermediary will selectively affect the information relating to the intermediary". In addition, dependent claims 26-34 are all drawn to method steps. Note, by means of example, even though claim 32 does not recite a method step, it is just providing details to the method step in claim 26.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 25-34 are rejected under 35 U.S.C. 102(b) as being anticipated by [www.usafutures.com](http://www.usafutures.com).

[www.usafutures.com](http://www.usafutures.com), dated 1/25/99 as shown by archive.org, shows an online brokerage firm. (see online trading in directory, means for generating a contract between buyers and sellers or intermediaries and producers). The “hedging – soybeans example”, found in the directory, explains the use of the futures market in the agricultural market. A futures contract includes the type of commodity, the quantity and a price, which is equal to the local cash bid or flat price and a basis price. (this is in the memory) The online brokerage (having first computing sub-system) receives electronic request from clients. (some clients are intermediaries) [www.usafutures.com](http://www.usafutures.com) has communications with the commodities exchange. (second sub-system) The system has a web page and each account holder or client would have access specific to their own account. (third sub-system) From the example, it is clear that a producer of an agricultural commodity would be a client and therefore could be received at the website (means for transmitting the web page). The determination or calculation of a flat price (means for calculating flat price) is an inherent feature of agricultural price structure. A broker would be well aware of this old and well-known simple mathematical relation. The hedging process (fourth sub-system) described is where the broker (acting on behalf of a client) obtains future contracts in order to reduce price risk when a client is prepared to trade in the actual commodity. Online brokers have real time commodity pricing (means for receiving price information for anyone), which is on their websites, show in graphs and tables (correlating).

***Response to Arguments***

3. Applicant's arguments filed 10/17/05 have been fully considered but they are not persuasive.

There are two main issues in this application, which are the root causes for the many discussion points.

First, the prior art on-line broker can be used by anyone (buyer, seller, producers, and intermediaries). Applicant chose to claim an apparatus claim. All the structure, including the structure for the 8 capabilities listed on the top of page 9 of the arguments, is met.

Second, applicant asserts that the system facilitates a transaction between a farmer and an elevator operator (page 9), is directed to a more complex transaction (page 9), and seeks to execute a separate transaction (page 12). There are no positive limitations in the claims to require a separate transaction.

To address the discussion points:

Applicant asserts that there is no evidence that each user would have an account and access thereof. The examiner assumed it was so obvious that an on-line broker would have individual accounts that it was not worth explaining in more detail. For the sake of prosecution, the examiner has provided references Anderson et al. (5,706,442), Mandler et al. (5,732,400), George Jr. (5,775,734) and Katz (5,787,156) showing some form of an on-line broker using accounts. By the way, accounts are not claimed. The examiner was using inherent accounts as a means to show that an on-line broker had to

display some information back to the user where the information was specific to the user.

Applicant asserts that there is no evidence for the mathematical relation of a flat price. Please re-read applicant's background section. The evidence is applicant's admitted prior art. Applicant further carries the argument that the prior art still would not anticipate a "means for calculating the flat price". The examiner's position is that since the on-line broker specializes in agricultural products, including examples, and the mathematical relation is so well know, the combination anticipates the limitation.

Applicant asserts that the examiner does not show elements such as "a fourth computing sub-system operatively coupled to the first, second, and third computing sub-systems". The examiner has shown a lot of latitude with applicant's lack of written description and drawing support for applicant's "sub-systems". The examiner has assumed that these sub-systems were the parts of a computer, which hosts certain software components and, therefore, the prior art meets the operatively connected limitation. If the examiner is not correct in this assumption, applicant is encouraged to address the 112 1<sup>st</sup>, 2<sup>nd</sup> and 6<sup>th</sup> problems that will arise and correct drawings and make sure no new matter is presented.

Applicant asserts no evidence for "means for receiving responses ...". During the interaction of an on-line agricultural broker, responses are received.

Applicant asserts no evidence for "means for communicating with the commodities exchange on behalf of the intermediary in order to ...". The commodities

exchange is specifically mentioned, brokers communicate on behalf of all clients and everything after "in order to" is intended use and has little patentable weight.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3/31/06  
Michael Cuff  
March 31, 2006